

TODD KIM, Assistant Attorney General  
SETH M. BARSKY, Chief  
S. JAY GOVINDAN, Assistant Chief  
MICHAEL R. EITEL, Senior Trial Attorney  
KAITLYN POIRIER, Trial Attorney (TN Bar # 034394)  
U.S. Department of Justice  
Environment & Natural Resources Division  
Wildlife & Marine Resources Section  
Ben Franklin Station, P.O. Box 7611  
Washington, D.C. 20044-7611  
Telephone: (202) 307-6623  
Facsimile: (202) 305-0275  
Email: kaitlyn.poirier@usdoj.gov; michael.eitel@usdoj.gov

Attorneys for Federal Defendants

IN THE UNITED STATES DISTRICT COURT  
  
FOR THE DISTRICT OF OREGON  
  
PORTLAND DIVISION

NORTHWEST ENVIRONMENTAL  
DEFENSE CENTER, et al.,

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS, et al.,

Defendants,

and

CITY OF SALEM and MARION COUNTY,

Defendant-Intervenors.

---

Case No.: 3:18-cv-00437-HZ

JOINT MOTION TO EXTEND THE  
DEADLINE TO COMPLETE LONG  
TERM RM&E PLAN

Plaintiffs and Federal Defendants respectfully request that the Court modify the deadline for the expert panel to submit a long term RM&E plan from December 31, 2021 to February 18, 2022.

Plaintiffs and Federal Defendants provide the following grounds in support of this motion:

1. The expert panel's implementation plan for the Foster Dam spring spill operations (injunction action 13(b)) states that the panel "will develop a long-term RM&E strategy for the South Santiam River by December 31, 2021 . . . ." Foster Dam Spring Spill Injunction Measure Implementation Plan, ECF 224-3 at 6. The Court entered an order on November 2, 2021, requiring the Corps to carry out the spring spill operations in the expert panel's implementation plan. Order, ECF 227 at 2.

2. The expert panel's implementation plan for the Green Peter spring spill operations (injunction action 12(a)) states that the "biological monitoring plan [in the implementation plan] is focused on the initial phase spring spill study. Beyond this, future RM&E will be included in the Long-Term RM&E Plan that will be developed and finalized by December 2021." Green Peter Dam Spring Spill Injunction Measure, ECF 228-2 at 5. The Court entered an order on November 29, 2021, adopting the implementation plan. Order, ECF 232 at 2.

3. Other implementation plans submitted to the Court mention that the expert panel will prepare long term RM&E plans either "later this fall or early 2022" or "winter of 2021/2022." *See, e.g.*, Expert Panel's Submission for Injunction Action 10(a), ECF 213-1 at 9; Cougar Dam Spring Fish Passage Injunction Measure Implementation Plan, ECF 224-2 at 7.

4. The expert panel has worked diligently to try and complete the long term RM&E plan by December 31, 2021. However, the panel will not be able to complete the plan by that date because of the time the panel has spent on other implementation plans, the complexity of the subject matter, and the expert panelist's holiday plans. The expert panel has another meeting scheduled to discuss the long term RM&E plan on January 5, 2022, and anticipates being able to complete the plan by February 18, 2022.

Therefore, Plaintiffs and Federal Defendants respectfully request that the Court enter an order stating that the expert panel may submit the long term RM&E plan by February 18, 2022, rather than December 31, 2021.

Dated: December 20, 2021

Respectfully submitted,

TODD KIM, Assistant Attorney General  
SETH M. BARSKY, Chief  
S. JAY GOVINDAN, Assistant Chief

/s/ Kaitlyn Poirier

KAITLYN POIRIER, Trial Attorney (TN Bar # 034394)  
U.S. Department of Justice  
Environment & Natural Resources Division  
Wildlife & Marine Resources Section  
Ben Franklin Station, P.O. Box 7611  
Washington, D.C. 20044-7611  
Telephone: (202) 307-6623  
Facsimile: (202) 305-0275  
Email: kaitlyn.poirier@usdoj.gov

Attorneys for Federal Defendants

/s/ Lauren M. Rule

Lauren M. Rule (OSB #015174)  
Elizabeth H. Potter (OSB #105482)  
ADVOCATES FOR THE WEST  
3701 SE Milwaukie Ave, Suite B  
Portland, OR 97202  
Tel: (503) 914-6388  
lrule@advocateswest.org  
epotter@advocateswest.org

Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on December 20, 2021, a true and correct copy of the above document was electronically filed with the Clerk of Court using CM/ECF. Copies of the document will be served upon interested counsel via the Notices of Electronic Filing that are generated by CM/ECF.

/s/ Kaitlyn Poirier

KAITLYN POIRIER, Trial Attorney (TN Bar # 034394)

U.S. Department of Justice

Environment & Natural Resources Division

Wildlife & Marine Resources Section

Ben Franklin Station, P.O. Box 7611

Washington, D.C. 20044-7611

Telephone: (202) 307-6623

Facsimile: (202) 305-0275

Email: kaitlyn.poirier@usdoj.gov

Attorney for Federal Defendants